

# **EXHIBIT 16**

# **FILED UNDER SEAL**

Page 1

1 IN THE UNITED STATES DISTRICT COURT  
2 FOR THE EASTERN DISTRICT OF TEXAS  
3 SHERMAN DIVISION

5 THE STATE OF TEXAS, et al., )  
5 )  
6 Plaintiffs, ) Case No.  
6 v. ) 4:20-cv-00957-SDJ  
6 )  
7 GOOGLE LLC, ) Hon. Sean D. Jordan  
7 )  
8 Defendant. )

10 HIGHLY CONFIDENTIAL  
11 PURSUANT TO PROTECTIVE ORDER

13 | THURSDAY, MAY 23, 2024

14  
15 Videotaped Deposition of [REDACTED],  
16 taken pursuant to notice and conducted at Norton Rose  
17 Fulbright US LLP, 1301 Avenue of the Americas, Room 30-C,  
18 New York, New York, commencing at 9:34 a.m., EDT, on the  
19 above date, before Jennifer A. Dunn, Registered Merit  
20 Reporter, Certified Realtime Reporter, Missouri Certified  
21 Court Reporter, and Certified Shorthand Reporter in  
22 California, Illinois, and Texas #12050.

877.370.DEPS

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2

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16 ALSO PRESENT:

17 Jonathan Jaffe, Consultant - It's Your Internet (via Zoom)

18 RAY MOORE - Trial Technician

19 CHRIS RITONA - Videographer

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1 MR. JUSTUS: Objection. Form.

2 THE WITNESS: I see. I don't think that  
3 ethics comes into that part of it.

4 The choice of what mechanism you use -- if  
5 everybody knows that's the mechanism you're using, then  
6 they can respond how they wish, right?

7 Just like when you're selling a house, you  
8 don't say, well, it's unethical the way people sell  
9 houses because it's a first price auction, right?

10 And buyers are often not truthful when  
11 they're trying to buy a house. They'll say: "I'll pay  
12 this much," and then later they say: "Last and final  
13 offer," and they increase -- you know, they're like --  
14 that's not truthful behavior, "but I would be actually  
15 willing to pay this much but I'm not, I'm going to  
16 start lower."

17 So I don't -- I wouldn't say that it's not  
18 right to have non-truthful mechanism. I think that if  
19 you told people that's what you're doing and you  
20 diverge from that, that's where it becomes not right.

21 Especially since these things kind of are  
22 layers that people build on, right? If they decide  
23 whether to -- whether to coordinate with you -- whether  
24 to cooperate with your system at all, because they  
25 believe, oh, you're doing the second first auction, I

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1 think that's reasonable, I understand it. I'm going to  
2 onboard and start sending you traffic.

3 Then you change the rules. You got to at  
4 least give them some time to think about like, do I  
5 still want to be here, like what about everybody else?  
6 Can I find other friends that maybe all want to just  
7 kind of like boycott this thing?

8 Or, you know, like it takes a while for  
9 people to be able to work through the implications if  
10 you change the rules.

11 So I think if you change the rules and you  
12 don't tell them, that's unethical. And I think if you  
13 change the rules and tell them but don't really give  
14 them much time to think it through, then that's not  
15 very nice either.

16 That's kind of being a jerk.

17 BY MS. YOUNG:

18 Q So you discussed two situations; changing the  
19 rules and not telling the auction participants.

20 A Yeah.

21 Q You believe is unethical?

22 A Yes.

23 Q And then a second situation where you've changed  
24 the rules and tell the participants but do not give them  
25 enough time to understand and implement the rule changes,

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CERTIFICATE

2

I, Jennifer A. Dunn, Registered Merit Reporter,  
Certified Realtime Reporter, Certified Shorthand Reporter,  
and Certified Court Reporter, do hereby certify that prior  
to the commencement of the examination, [REDACTED]

3

[REDACTED], was duly remotely sworn by me to testify to the  
truth, the whole truth and nothing but the truth.

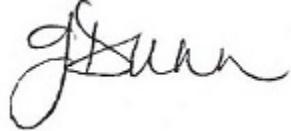
4

I DO FURTHER CERTIFY that the foregoing is a verbatim  
transcript of the testimony as taken stenographically by me  
at the time, place and on the date hereinbefore set forth.

5

I DO FURTHER CERTIFY that I am neither a relative nor  
employee nor attorney nor counsel of any of the parties to  
this action, and that I am neither a relative nor employee  
of such attorney or counsel, and that I am not financially  
interested in the action.

6



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8

"/s/JENNIFER A. DUNN"

9

NCRA Registered Merit Reporter

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NCRA Certified Realtime Reporter

11

California Certified Shorthand Reporter #14461

12

Illinois Certified Shorthand Reporter #084.004939

13

Missouri Certified Court Reporter #485

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Texas Certified Shorthand Reporter #12050

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Dated: May 23, 2024